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Monthly Newsletter

Issue: # 0408

April/20

Dear Anthony,

This year has definitely been a bumpy one for everyone in the mortgage lending industry. Unfortunately, as a result, lawsuits are on the rise. With that in mind, we hope to equip mortgage lenders and brokers this month with some helpful advice, from Anthony Geraci, to keep you out of litigation. We also have added some very exciting features to our firm for your success.

Featured Article

Mortgage Lender/Broker Litigation: How To Protect Yourself by *Anthony F. Geraci*

Everyone has been talking about how the current market has declined and sales are starting to fall. Unfortunately, another result of tough times is that litigation seems to be on the rise. Many lenders and brokers are facing lawsuits from not only borrowers but institutional lenders as well. This article will discuss the top 4 things you should be doing to protect yourselves from lawsuits.

Quality Control

Quality control is something that is usually swept under the carpet and never looked at again after the file closes. However, a random selection of files every few months may help you ensure that your file was closed correctly and compliantly. At a minimum, a closed file should have (assuming it is a residential loan): (1) estimated TIL and GFE sent to the borrower three days after the application has been completed, (2) signed 1003, (3) signed loan documents which should consist of (a) the Note, (b) the Deed of Trust, (c) any riders to the Deed of Trust, (d) Section 32 Disclosures (if applicable), (e) California High Cost Loan Law Disclosures (if applicable), (f) escrow instructions, (g) fair lending disclosure, (h) USA Patriot Act disclosures, and (i) a 3 Day Right to Cancel (if applicable).

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Services Offered at Geraci Law Firm

- **Banking & Finance**
 - Compliance with State & Federal Lending Laws
 - Draft Custom Loan Documents (Construction Commercial, HELOC)
- **Real Estate**
 - Construction
 - Financing & Sales

Review your Correspondent Lender Agreements

Besides borrower lawsuits, lawsuits from institutional lenders like IndyMac, Wells Fargo and Washington Mutual are on the rise. This is because they are facing widespread losses and are now seeking to sue correspondent lenders over these issues. Review your agreements with these banks and, if you do not have the whole agreement, request it from the institutional lender now. File these away in case you need to refer to them if you are ever brought into a demand by an institutional letter. Supply these to your attorney so that they may decide what rights and responsibilities you have under the contract.

Call Your Attorney With Compliance Questions Before You Make the Loan

You may be very familiar with the lending business, but it never hurts to contact your attorney for compliance questions if a new or unique situation presents itself and you are unsure of how to proceed. Remember, it is cheaper to pay your attorney \$300 now than it is to pay them \$100,000 later in defending you against a lawsuit.

Put Everything in Writing

The latest lawsuits from borrowers are coming up with off-the-wall claims including failure to explain the documentation to borrowers as well as misrepresentation and fraud. Brokers and Lenders should draft up a disclosure and have the borrower sign the document stating that he or she understand what the loan documents say, that the brokers have explained to them every term of the loan documents and that they acknowledge that they are fully satisfied with the terms of the loan. This will help protect you from these strange lawsuits that brokers and lenders are currently facing.

As always, if you have any questions or need assistance, please do not hesitate to contact me (Anthony Geraci) at Geraci Law Firm. I always give a free initial consultation and will help you with a solution that fits your goals. Call me at (949) 260-9156 or [email](#) me.

Mortgage Pools

Scotsman Guide: Commercial Edition (June 2008)

Anthony F. Geraci, a featured writer for Scotsman Guide, just finished up an extensive article covering mortgage pools or funds. The article aims to answer many basic questions, such as what a pool is and how it works, as well as more in-depth questions for those looking into developing a pool.

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 - Pre-Nuptial Agreements
 - Legal Separation/Divorce/Annu
 - Alimony/Spousal Support
 - Child Support/Custody
- **Litigation**
 - Complex Business Litigati

- General Civil Litigation

Be sure to check out this can't miss article in the June 2008 Commercial Edition of Scotsman Guide.

CA D.O.C. Mortgage Pool Renewals

Do you have a securities permit coming up for renewal? Anthony Geraci can help get your mortgage pool renewed quickly, efficiently, and for the very low cost of \$1500 plus costs.

Contact Anthony at (949) 260-9156 or email him at anthony@geracilawfirm.com.

Trademarks

Have You Protected the Goodwill You've Worked Hard to Create?

Are you creating a regional or national presence and branding the name behind it? As you probably know, your brand recognition and your company go hand in hand. Have you adequately protected it? Most companies incorporate their business and then immediately set out to build their business and resulting goodwill. However, without a registered trademark, there is no way for a business who wants to become a national company to enforce it outside of their own state. Indeed, without a state registered trademark, it may be impossible to enforce your own company's trademark even though it is registered with the Secretary of State! Consider registering your trademark.

Geraci Law Firm does trademark registration for as low as \$1,000 plus costs. If you want to find out more contact Anthony at anthony@geracilawfirm.com.

Introducing Podcasts & Webinars

Geraci Law Firm is excited to announce that we now have additional avenues of bringing our services to our clients and prospective clients. Beginning in May our podcast, "Mortgage Talk with Anthony Geraci", will be featured on our website, www.geracilawfirm.com and available on iTunes. Our first broadcast *Quality Control* will be based on our newsletter's Feature Article.

In addition, we will host our first webinar for California brokers and lenders, discussing SB 385 and the differences between it's

application to DRE & CFL licenses, on July 10, 2008 from 2:00-3:00pm PST. The cost is \$29 per person and space is limited to 50 participants. For more information or to reserve your spot, please contact Melissa Griswold at (949) 260-9156 or melissa@geracilawfirm.com.

For more information on any of these topics discussed, please do not hesitate to contact us at (949) 260-9156 or send us an email to info@geracilawfirm.com.

As always, we appreciate the opportunity to earn your business.

Sincerely,

All of us at Geraci Law Firm, APC



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